

225046

STATE OF SOUTH CAROLINA )

(Caption of Case)

Application of Tega Cay Water Service, Inc. for Adjustment of Rates and Charges and Modifications to Certain Terms and Conditions for the Provision of Water and Sewer Service )

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2009 - 473 - WS

(Please type or print)

Submitted by: Benjamin P. Mustian, Esquire

Address: Post Office Box 8416 Columbia, SC 29202

SC Bar Number: 68269

Telephone: 803-252-3300

Fax: 803-771-2410

Other:

Email: bmustian@willoughbyhoefer.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- Emergency Relief demanded in petition
Request for item to be placed on Commission's Agenda expeditiously
Other:

Table with 2 columns: INDUSTRY (Check one) and NATURE OF ACTION (Check all that apply). Includes categories like Electric, Gas, Water/Sewer and actions like Affidavit, Agreement, Answer, etc.



**WILLOUGHBY & HOEFER, P.A.**

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY  
JOHN M.S. HOEFER  
RANDOLPH R. LOWELL  
ELIZABETH ZECK\*  
BENJAMIN P. MUSTIAN  
MICHAEL R. BURCHSTEAD  
ANDREW J. MACLEOD

AREA CODE 803  
TELEPHONE 252-3300  
TELECOPIER 256-8062

TRACEY C. GREEN  
ALAN WILSON  
SPECIAL COUNSEL

\*ALSO ADMITTED IN TX

July 28, 2010

**VIA HAND DELIVERY**

The Honorable Jocelyn G. Boyd

Chief Clerk/Administrator

**Public Service Commission of South Carolina**

101 Executive Center Drive

Columbia, South Carolina 29210

RE: Application of Tega Cay Water Service, Inc. for adjustment of rates and charges and modifications to certain terms and conditions for the provision of water and sewer service. Docket No.: 2009-473-WS

Dear Ms. Boyd:

I am writing to you concerning certain documents which have been furnished to the Public Service Commission of South Carolina ("Commission") as a result of the public night hearing held in the above-referenced matter on May 19, 2010. As you are aware, Ms. Donna Britsch, a customer of Tega Cay Water Service, Inc. ("TCWS" or the "Company") testified at that proceeding and sponsored a petition containing customer signatures. The Commission entered this petition into the record as Hearing Exhibit No. 3; however, Ms. Britsch requested that she also be allowed to submit at a later date some additional petitions which were then still being signed. Tr. Vol. 1, p. 23, ll. 15-20; p. 25, ll. 9-10. The Commission granted Ms. Britsch's request stating that it would accept "the additional petitions" following the hearing. Tr. p. 25, ll. 22-25.

On July 14, 2010, counsel for TCWS was informed by Ms. Jo Wheat, court reporter in the above-referenced docket, that additional documents had been received from Ms. Britsch per the instruction of the Chairman in this matter. However, a review of the submitted information demonstrates that the submitted documents are not limited to petition signatures as Ms. Britsch requested and as allowed by the Commission. Rather, the additional documents contain pictures and letters from customers purportedly relating to service and other issues.

Initially, Ms. Britsch has not established any evidentiary foundation for the photographs or the written commentary on the issues addressed therein. TCWS is informed and believes that

(Continued . . .)

The Honorable Jocelyn G. Boyd

July 28, 2010

Page 2

---

many, if not all, of the pictures submitted by Ms. Britsch are of facilities not owned or operated by TCWS. Further, TCWS was not previously notified of the existence or content of these documents or that Ms. Britsch would seek to introduce this information following the hearing in this matter. The Company has similarly not been afforded the opportunity to cross-examine Ms. Britsch or the customers who authored the commentary contained therein. Finally, TCWS is unduly prejudiced from the entry of these documents into the record of this proceeding inasmuch as the final merits hearing was held on July 13, 2010 and TCWS does not now have an opportunity to rebut these assertions.

Therefore, TCWS would object to pages 7 – 16 of the document submitted to the Commission by Ms. Donna Britsch as an “addition” to Hearing Exhibit No. 3. The basis for this objection is that this additional documentation constitutes hearsay, see Rule 802, S.C.R.E., that the admission of same would violate its rights to administrative due process, see S.C. Const. art. I, § 22, and the documents are irrelevant inasmuch as they pertain to public utilities which are not parties to this proceeding.

If you need any additional information, please do not hesitate to contact me. With best regards, I am,

Sincerely,

**Willoughby & Hoefler, P.A.**



Benjamin P. Mustian

BPM/cf

cc: Jeffrey M. Nelson, Esquire  
James E. Sheedy, Esquire  
Susan E. Driscoll, Esquire